

REMARKS

Claims 24, 26-30 and 39-44 are in the application. Claims 1-23 and 31-38, standing withdrawn, have been cancelled, but this cancellation is not to be interpreted as abandonment of the invention of these claims or the abandonment of the pursuit of patent protection for these claims. Claim 24 has been amended to further limit the Ra of the coated mat in the laminate to no more than 13 microns, basis found on page 3, lines 10-12, and to clarify that both the clay and the inorganic filler have a particle size such that at least 95 wt. percent are less than 200 mesh, basis being found in the specification at page 4, lines 6-13. Claim 27 has been amended to clarify that at least 95 wt. percent of both the clay and the limestone are minus 325 mesh, basis found on page p 4, lines 6-13 and page 13, lines 6-8. Claim 28 has been amended to clarify that the kaolin particles are in the size range of about 1 to about 25 microns, basis found in the sentence spanning pages 12 and 13 of the specification. Claims 29 and 42 have been amended to make them dependent from a proper claim. Claim 39 has been amended to change 13 microns to 10 microns, basis found in claim 40.

The invention is a laminate containing a nonwoven fibrous mat containing a major portion of non-cellulosic fibers having an average fiber diameter of at least about 10 microns and up to 20 microns, the fibrous mat having a coating on a surface, the coating having an exposed surface having a surface smoothness Ra of no greater than about 13 microns, the coating comprising a minor amount of clay, a minor amount of binder and a major amount of inorganic filler. The novelty of the laminate of the invention lies in the type of coated mat and the degree of smoothness of the exposed surface of the coated fibrous mat. The claimed laminate provides a laminate made using something other than a cellulosic fiber mat, to avoid potential mold problems, and yet still having a degree of smoothness needed in the industry for an exposed surface ready for painting, wallpapering, etc.

Claims 24, 26-30 and 39-44 were rejected under 35 USC 112, second paragraph as being indefinite for the stated reasons. All of these claims have been amended to address the stated reasons and applicant believes that these amendments adequately address these reasons and place the claims in compliance with 35 USC 112. For this reason applicant respectfully requests the Examiner to withdraw this rejection and to allow all of the claims.

Claims 24, 26-30, 39-44 stand rejected under 35 USC 103 as being unpatentable over Jaffee et al '187 in view of Leclercq. The Examiner states that it is presumed that the mat or mats disclosed in this reference have the degree of surface smoothness of the claimed invention, but no proof is provided by the Examiner to support this presumption. This presumption is not correct as evidenced by the Examples, specifically Example 1 vs Example 2 and Example 7 vs Example 8, provided in the present application. The Examiner has apparently ignored this evidence. Other examples show that different kinds of mats and different kinds of coatings, when made according to the non-elected present invention have the surface smoothness recited in the claims.

The coated mats taught by Jaffee et al are dried with the coating exposed to the air and hot gases in the oven, the manner of drying used in Examples 1 and 7, and show that drying in the conventional manner and the manner used by Jaffee et al produces a relatively smooth surface, but not nearly as smooth as possessed by the mats in the laminates of the claimed invention. There is no suggestion in Jaffee et al to at least partially drying the mat and/or the coating while it is in contact a smooth surface. This step in the manufacture of the coated mats is critical to the manufacture of the coated mat of claims of Groups I and II and to the method claims of Group III.

Examples 1 and 2 of the present specification show that when the same mat is coated with the same coating composition, Example 1, coated with essentially the same coating weight (19.9 gms/sq. ft. for Example 1 and 19.3 gms/sq. ft. for Example 2, and then dried in a conventional manner with the coated surface exposed to hot air and hot gases shows that the surface is not nearly so smooth as the surface of the mat made according to the invention, i.e. the Example 2 mat having the coating against a smooth surface during drying, had an Ra of 1.2 microns, substantially smoother than the Ra of Example 1, 16 microns. This shows clearly that the Examiner's presumption of the surface smoothness of Jaffee et al is not right and is without support. Examples 5 and 6, compared with Example 1 also show this. Examples 7 (dried in a conventional manner of being exposed to the hot gases in the oven) and 8 (dried or partially dried in contact with a smooth surface) also prove the presumption wrong. The surface of the Example 8 mat made according to the invention had a surface smoothness Ra of 1.08 whereas the mat in Example 7, dried as taught by Jaffee et al, had a much less surface smoothness, an Ra of 18.2 microns. The examples in the specification are of sufficient diversity and

scope, coupled with reasonable statements made by the applicant in the specification, as to provide reasonable basis for the scope of the claims.

Leclercq is cited to show a prior art coating composition for coating fibrous mats intended for use in facing a core of plaster to make a laminate with a mat coating exposed. Leclercq does not disclose the coating method he used to make the coated mats, only that it was a conventional coating process. There are many conventional coating processes, but none include the novel coating process of applicant's non-elected invention, and the very smooth surface on the presently claimed laminates is the result of using applicant's novel coating process. Leclercq discloses a gloss property, but only after applying two coats of paint to the coated mat on the wall board. Also, Leclercq does not disclose the details of the gloss test or provide a standard test number so it is impossible to determine how he conducted this test. Applicant's surface smoothness test is thoroughly described on page 10, lines 17-28 of the specification. In view of the incomplete disclosure of Leclercq on both the coating process used or the gloss test method, it is unreasonable to presume that the surface smoothness of Leclercq's coated mats is the same as that on the laminates claimed herein.

It is well established that a rejection under 35 USC 102 or 35 USC 103 that is based on alleged inherent properties of a prior art product must be reasonable and have some basis in either the prior art reference or in the common knowledge of one skilled in the art. That is not present here because Jaffee et al did not teach or suggest that his mats had a surface smoothness within the range claimed in this application. Although the mats of Jaffee et al can be used as facers, Jaffee et al did not teach or suggest that the surface would be as smooth as kraft paper, see the present specification at page 3, lines 8-10. It is also well established that where the applicant has shown with evidence that the inherency urged by the Examiner is not correct, the inherency rejection is overcome. The Office Examiners continue to ignore this evidence of Examples 1 vs 2 and 7 vs 8 and that is both unreasonable and error. The fact that the smooth surface is produced using a novel process does not change or detract from the novelty and unobviousness of the resultant coated mats of the invention and the novelty and unobviousness of the claimed laminates containing these coated mats.

Also, Neither Jaffee et al or Leclercq disclose or reasonably suggest the coating composition recited in claim 26 and claims dependent thereon, e.g. Leclercq teaches

using a minimum of 25.5 wt percent clay (85% x .30) and up to 66.5% clay (95% x .7), see paragraphs 0043 and 0051 – 0054.

For these reasons applicant believes that these claims are patentable and respectfully requests the Examiner to withdraw this rejection and to allow all of these claims. If the Examiner believes one or more issues still exist, to expedite a disposal of this application, the Examiner is invited to call applicants' attorney at the number below to discuss resolution.

Respectfully submitted,


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